

United States District Court

NOV 01 2006

for the

at 3 o'clock and 30 min. P.M. 5
SUE BEITIA, CLERK

DISTRICT OF HAWAII

**Request for Modifying the Conditions or Term of Supervision
with Consent of the Offender***(Probation Form 49, Waiver of Hearing is Attached)*

Name of Offender: BEATRICE FANENE

Case Number: CR 00-00112SOM-01

Name of Sentencing Judicial Officer: The Honorable Susan Oki Mollway
U.S. District Judge

Date of Original Sentence: 4/9/2001

Original Offense: Counts 3 and 5: Possession With Intent to Distribute and
Distribution of Methamphetamine Within 1,000 Feet of a School, in
violation of 21 U.S.C. § 860, Class B feloniesCount 4: Aiding and Abetting the Possession With Intent to
Distribute and Distribution of Methamphetamine Within 1,000 Feet
of a School, in violation of 21 U.S.C. § 806 and 18 U.S.C. § 2, a
Class B felony

Original Sentence: Twelve (12) months and 1 day imprisonment as to each of
Counts 3, 4, and 5 of the Indictment, to be served concurrently with
each other, and 6 years supervised release as to each of Counts 3,
4, and 5 of the Indictment, to be served concurrently, with the
following special conditions: 1) That the defendant is prohibited
from possessing any illegal or dangerous weapons; 2) That the
defendant participate in a substance abuse program, which may
include drug testing at the discretion and direction of the Probation
Office; 3) That the defendant participate in a mental health program
at the discretion and direction of the Probation Office; 4) Without the
prior approval of the Probation Office, the defendant shall not enter
the geographical area bordered by North King Street, Waiakamilo
Road, Dillingham Boulevard, and Kalihi Street, as depicted in the
map to be attached to the Judgment; and 5) The defendant shall
submit her person, residence, place of employment, or vehicle to a
search conducted by the U.S. Probation Office at a reasonable time
and in a reasonable manner, based upon reasonable suspicion of
contraband or evidence of a violation of a condition of release.
Failure to submit to a search may be grounds for revocation. The

defendant shall warn any other resident that the premises may be subject to search pursuant to this condition.

Modified
Sentence:

On 11/24/2003, the conditions of supervision were modified as follows: 6) That the defendant be placed in Miller Hale, a community corrections center, for not more than 180 days and be released at the discretion and direction of the Probation Office. The defendant shall participate in the programs at Miller Hale to include employment and job training opportunities.

Revocation
Sentence:

On 2/11/2004, the defendant's supervised release was revoked for the following violations: 1) admitted smoking methamphetamine; 2) failed to report to the Probation Office; 3) failed to follow the instructions of the Probation Office; 4) failed to notify the Probation Office 10 days prior to a change in residence; 5) failed to participate in mental health counseling; and 6) engaged in conduct constituting Theft in the Third Degree. The defendant was sentenced to a term of 6 months imprisonment and 66 months supervised release with the following special conditions: 1) That the defendant participate in a substance abuse program, which may include drug testing at the discretion and direction of the Probation Office; 2) That the defendant is prohibited from possessing any illegal or dangerous weapons; 3) Without the prior approval of the Probation Office, the defendant shall not enter the "Operation Weed and Seed" target area which is bordered by Lunalilo Freeway, Nuuanu Avenue, Bethel Street, Nimitz Highway, North King Street, Dillingham Boulevard, and Kokea Street, as depicted in the map to be attached to the Judgment; 4) That the defendant be placed in Miller Hale, a community corrections center, for not more than 180 days at the discretion and direction of the Probation Office. The defendant shall participate in the programs at Miller Hale to include employment and job-training opportunities; and 5) That the defendant participate in a mental health program at the discretion and direction of the Probation Office.

Modified
Sentence:

On 1/25/2003, the conditions of supervision were modified as follows: 4) That the defendant be placed in Mahoney Hale, a community corrections center, for an additional term of 180 days for a total term of not more than 360 days at the discretion and direction of the Probation Office.

Modified**Sentence:**

On 8/9/2006, the conditions of supervision were modified as follows:
General Condition: That the defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of commencement of supervision and at least two periodic drug tests thereafter but no more than eight valid drug tests per month during the term of supervision, unless there is a positive drug test, in which event the maximum shall increase to up to one valid drug test per day (mandatory condition); 1) That the defendant shall participate and comply with substance abuse treatment which includes drug and alcohol testing, at the discretion and direction of the Probation Office. The defendant is to refrain from the possession and/or use of alcohol while participating in substance abuse treatment.

Type of Supervision: Supervised Release Date Supervision Commenced: 8/6/2004

PETITIONING THE COURT

To modify the conditions of supervision as follows:

Special Condition No. 6: That the defendant be placed in Mahoney Hale, a residential reentry center, for not more than 180 days and be released at the discretion and direction of the Probation Office. The defendant shall participate in the programs at Mahoney Hale to include employment and job training opportunities.

CAUSE

The offender's second term of supervised release commenced on 8/6/2004. The offender immediately entered Mahoney Hale as a public law placement on the same day. The offender satisfied the 180-day term and was released from Mahoney Hale on 7/29/2005. She then entered Victory Ohana, a residential living center.

The Court may recall that the offender relapsed on methamphetamine on or about 7/28/2006. The violation was reported to the Court with a recommendation of no adverse action since she was referred to the Freedom Recovery Services (FRS) for counseling and drug testing. The offender continues to receive drug counseling at FRS.

On or about 9/1/2006, the offender moved out of Victory Ohana to reside with her sister, Linda Fanene. On 10/30/2006, the offender reported to the Probation Office and requested placement at Mahoney Hale. The offender related that she was not getting along with her sister and in order for her to save money and secure her own residence, she feels that Mahoney Hale would provide a safe and structured program where she

Prob 12B
(7/93)

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can work towards her goals. During her previous stays at Mahoney Hale, the offender adjusted well to the program. This officer supports the offender's request. According to Mahoney Hale director Franciflor Cuesta, there is no immediate public law bedspace at this time, but the offender will be placed on a waitlist. The special condition is necessary for her placement. Although the Court had previously imposed this condition, she completed that 180-day stay and was released.

Attached is a signed Waiver of Hearing to Modify Conditions of Supervised Release. The offender waives her right to a hearing and to assistance of counsel. The offender agrees to the modification of the conditions of supervised release. The offender's attorney and the U.S. Attorney's Office have been notified of the proposed modification and have no objections to the modification.

Respectfully submitted by

MERILEE N. LAU
U.S. Probation Officer

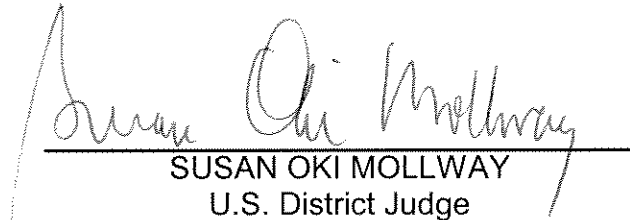
Approved by:

GENE DeMELLO, JR.
Supervising U.S. Probation Officer

Date: 10/31/2006

THE COURT ORDERS:

- ☒ The Modification of Conditions as Noted Above
☐ Other


SUSAN OKI MOLLWAY
U.S. District Judge

OCT 31 2006

Date

PROB 49
(5/96)

United States District Court

District of Hawaii

Waiver of Hearing to Modify Conditions of Probation/Supervised Release and/or Extend Term of Supervision

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release and/or my period of supervision being extended. By "assistance of counsel," I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release and/or to the proposed extension of my term of supervision:

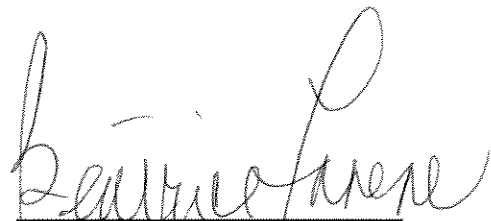
[X] To modify the conditions of supervision as follows:


6. *That the defendant be placed in Mahoney Hale, a residential reentry center, for not more than 180 days and be released at the discretion and direction of the Probation Office. The defendant shall participate in the programs at Mahoney Hale to include employment and job training opportunities.*

Witness:


MERILEE N. LAU
U.S. Probation Officer

Signed:


BEATRICE FANENE
Supervised Releasee


Date